

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

In re TIMOTY L. KENT, C28469,
Plaintiff.

Case No. 16-4037 SK (PR)

ORDER OF DISMISSAL

On July 18, 2016, the clerk filed as a new prisoner action a letter by plaintiff complaining of inadequate medical care at High Desert State Prison. On that same date, the court notified plaintiff that the action was deficient because he did not file an actual complaint or pay the requisite filing fee or, instead, submit an in forma pauperis application. Plaintiff was advised that failure to file the requested items within 28 days would result in dismissal of the action.

Plaintiff promptly filed two letters explaining that he does not wish to proceed with this action because it was not his intention to file an actual action when he sent a letter to the court asking for guidance. Plaintiff's letters are construed as a notice of voluntary dismissal under Federal Rule of Civil Procedure 41(a)(1) and, pursuant thereto, the above-captioned matter is DISMISSED without prejudice. See American Soccer Co. v. Score First Enters., 187 F.3d 1108, 1110 (9th Cir. 1999) (plaintiff's "absolute right" to dismiss action voluntarily before defendants serve answer or motion for summary judgment leaves no role for court to play).

The clerk shall close the file and assess plaintiff no filing fee because he did not intend to file an actual action.

IT IS SO ORDERED.

Dated: August 12, 2016



SALLIE KIM
United States Magistrate Judge